

Internal Revenue Service
District Director

Department of the Treasury
SOUTHEAST KEY DISTRICT OFFICE (EP/EO)

Date **MAR 01 1999**

Person to Contact [REDACTED]

Contact Telephone Number [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

CERTIFIED MAIL.

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code

The information submitted indicates that you were incorporated [REDACTED]
[REDACTED]

Your stated purposes are to function as a Unit Owners' Association for condominium property as required by [REDACTED] and in connection therewith to provide for the acquisition, construction, management, maintenance and care of [REDACTED] located in the township of [REDACTED] to enforce all convenience, restrictions, reservations, servitudes, profits, licenses, conditions, agreements, easements and liens to which such condominium property is or may become subject and which the Corporation shall have the right to enforce, and to represent and promote the welfare of its members generally, and to cooperate with the officials of township, municipal, county, state and other public authorities for the promotion and betterment of the interests of such members.

Income is from Gross dues and assessments of members. Expenditures are for repairs and maintenance of all common property and the exteriors of all condominium units. Repairs will be done yearly or on an as needed basis.

Your activities consist of providing exterior maintenance and other services normally performed by a condominium unit owners association.

A condominium is defined [REDACTED] as an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with separate interest in space in a residential, industrial, or commercial building on such real property, such as an apartment, office, or store. [REDACTED] provides that the owner of a condominium unit individually owns the interior surfaces of the perimeter walls, floors, ceilings, windows, and doors of his unit.

[REDACTED] further provides that the common areas of the condominium property are owned by the unit owners as tenants in common, in equal shares, one for each unit.

[REDACTED]

Section 501(c)(4) of the Internal Revenue Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare

Section 1.501(c)(4)-1(a)(2)(i) of the regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting some way the common good and general welfare of the people of the community. An organization embraced within this Section is one which is operated for the purpose of bringing about civic betterments and social improvements

In Revenue Ruling 69-280, 1969-1 C.B. 152, the Service held that an organization formed to provide maintenance of exterior walls and roofs of homeowner members in a development was not exempt as a social welfare organization. In denying exemption under Internal Revenue Code section 501(c)(4), the Service viewed the organization as operating primarily and directly for the benefit of its individual members rather than for the community as a whole.

In Revenue Ruling 72-102, 1972-1 C.B. page 149, states that a non-profit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks and common areas for use of the residents is exempt under section 501(c)(4) of the Code. Membership is required of all owners of real property in the development and assessments are levied to support the organization's activities. It was held that by maintaining the property normally maintained by a municipal government, the organization served the common good and general welfare of the people of the community.

In Revenue Ruling 74-99, 1974-1 C.B. page 131, modified Revenue Ruling 72-102 by stating guidelines under which a homeowners' association could qualify for exemption under section 501(c)(4) of the Code. These guidelines are

1. The organization must serve a "community" which bears a reasonable, recognizable relationship to an area ordinarily identified as a governmental unit;
2. It must not conduct activities directed to the exterior maintenance of private residences; and
3. The common areas or facilities must be for the use and enjoyment of the general public.

Revenue Ruling 74-99 states that Revenue Ruling 72-102 "... was intended only to approve ownership and maintenance by a homeowners' association of such areas as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public, as distinguished from controlled use or access restricted to the members of the homeowners' association.

To qualify for exemption, a homeowners' association must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental. It must not conduct activities directed to the exterior maintenance of private residences, and the common areas it owns and maintains must be for the use and enjoyment of the general public.

Since the organization's activities are for the private benefit of its members, it cannot be said to be operated exclusively for the promotion of social welfare. Accordingly, you do not qualify for exemption from Federal income tax under section 501(c)(4) of the Code.

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In accordance with this determination, you are required to file Federal income tax returns on Form 1120. Your attention is called to Code section 528, which provides certain procedures by which qualifying homeowners associations may elect to be treated as a tax exempt organization.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, laws and any other information to support your position as explained in the enclosed Publication 892. You will be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or if you request, at any mutually convenient district office. If we do not hear from you within 30 days from the date of this letter, this determination will become final.

Sincerely yours,



Paul M. Harrington
District Director

Enclosures: Publication 892